

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: GRAND JURY
SUBPOENA TO [REDACTED].

X

ORDER
20-MC-1327 (JO)

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James Orenstein, Magistrate Judge:

By order dated June 12, 2020, I afforded the government and the recipient of a grand jury subpoena an opportunity to submit briefs setting forth their respective positions on the validity of the application of the nondisclosure provision of 18 U.S.C. § 2705(b) specifically to the circumstances of a grand jury subpoena. While the overall docket for this matter is properly kept under seal to maintain the secrecy of matters occurring before a grand jury, *see* Fed. R. Crim. P. 6(e)(2), nothing in my order revealed any facts about either the subpoena or the underlying grand jury investigation. Moreover, the issue as to which I seek the subpoena recipient's views is a purely legal one that requires no discussion of any matter occurring before the grand jury, and that is likely to arise in future cases. As a result, while there is no cognizable prejudice that only litigating this matter will cause to anyone, there are a host of good reasons to resolve the legal issue on the public record. *See, e.g., Matter of Leopold to Unseal Certain Elec. Surveillance Applications & Orders*, 300 F. Supp. 3d 61, 79-80 (D.D.C.), *reconsideration denied*, 327 F. Supp. 3d 1 (D.D.C. 2018).

I therefore respectfully direct the Clerk to redact the caption of the docket as set forth above, unseal the overall docket, and file the unredacted version of the Order of June 12, 2020 under seal, and file a redacted version on the public docket. The government's original application shall remain under seal. I further respectfully direct the subpoena recipient to file its brief (should it elect to submit one) on the public docket. If either the subpoena recipient or the government

believes that any parts of its submission should properly be sealed, it may file an unredacted copy under seal and an unsealed redacted version on the public docket.

SO ORDERED.

Dated: Brooklyn, New York
June 12, 2020

/s/
James Orenstein
U.S. Magistrate Judge